

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated October 20, 2008. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

Claims 1-11 are pending in the Application.

In the Final Office Action, claims 1-6 and 9-11 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 1,115,328 ("Murran"). Further, claims 7 and 8 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Murran and U.S. Patent No. 2,077,367 ("Hanley"), each taken separately. The rejections are respectfully traversed as claims 1-11 are allowable over Murran and Hanley for at least the following reasons.

To begin, it is respectfully submitted that at the very least, the Final Office Action fails to present a prima facie case of anticipation against claims 1 and 9 based on Murran. A prima facie case of anticipation requires a showing as to how each and every element set forth in a claim is met by a single reference. In paragraph 3 of the Final Office Action, the anticipation rejection is supported by nothing more than a conclusory assertion that "Murran discloses a shaving apparatus with every structural

limitation of the claimed invention including cooperating cutting members as shown in FIG. 3". In this regard, the anticipation rejections are invalid as a matter of law.

Notwithstanding the above, it is respectfully submitted that Murran does not and cannot support a prima facie case of anticipation against claims 1 and 9. Indeed, on a fundamental level, Murran discloses a hedge trimming apparatus for trimming bushes, and not a shaving apparatus for cutting hairs. Clearly, a hedge trimming apparatus as disclosed in Murran would not, and could not, be used as a shaving apparatus for cutting hair. This undisputed fact alone renders the anticipation rejections based on Murran legally deficient and improper as a matter of law.

Moreover, even assuming, arguendo, that reliance on Murran is legally reasonable in the first instance, it is categorically clear that Murran does not disclose or remotely suggest, a shaving apparatus that amongst other patentable elements, comprises (illustrative emphasis added) "two cooperating cutting members that are movable relative to each other. . . each provided with cutting teeth that only partially overlap during operation of the shaving apparatus wherein . . . a cutting opening is present between the cooperating edges of the cutting teeth . . . wherein a space

remains between at least a portion of the cooperating edges such that the cutting openings are not entirely closed during operation of the apparatus," as recited in claim 1, and as similarly recited in claim 9.

Indeed, as previously explained by Applicants, Murran discloses a base plate (5) having a series of teeth (9) formed on one edge thereof and a guard plate (7) having a series of teeth (11) formed on one edge thereof. The plates (5) and (7) are fixedly disposed in spaced relation to each other such that the teeth (9) and (11) overlap to form a pocket (13) there between for receiving a cutter (6) having cutting teeth (16) with cutting edges (17) formed on one edge thereof. The cutter (6) reciprocates back and forth such that the teeth (16) are adapted to be located within the pockets (13) and be reciprocated therein (see page 1, lines 46-58, lines 64-70).

In view of the above teachings of Murran, and given the complete lack of supporting explanation in the Final Office Action, it is unclear how or what features in Murran are interpreted as meeting the above-cited features of claims 1 and 9. The Final Office Action asserts that Murran discloses in FIG. 3 "cooperating cutting members", but has not yet specified (in any Office Action

thus far) what elements in Murran are interpreted as being "cooperating cutting members" with regard to claims 1 and 9, much less "two cooperating cutting members that are movable relative to each other. . . each provided with cutting teeth that only partially overlap during operation of the shaving apparatus".

Even if it is accepted in arguendo that Murran shows two cooperating cutting members that are movable relative to each other, e.g., base(5)/cutter(6) or guard plate(7)/cutter(6), and that each of the two cooperating cutting members are provided with cutting teeth, e.g., teeth(9)/teeth(16) or teeth(11)/teeth(16), there is nothing in Murran that discloses or suggests that the cutting teeth only partially overlap during operation of the shaving apparatus.

Indeed, although the cutting member (6) of Murran is movable with regard to either cutting member (5) or (7), it is clear that the cutting teeth (16) of cutter (6) and cutting teeth (9) or (11) of respective plate member (5) or (7), are fully overlapped at some point during operation of the hedge trimmer. In particular, the teeth (16) are reciprocated such that at one point during operation, the teeth (16) are fully disposed in the pocket (13) between, and fully overlapped by, teeth (9)/(11). Thus, Murran

does not disclose or suggest that the cutting teeth (of two cooperating cutting members) only partially overlap during operation of the shaving apparatus, as recited in claims 1 and 9.

In the Response to Arguments section (paragraph 6) of the Office Action, it is contended that the claims remain broad due to the "cooperating" language. It is contended that the claims are not specific as to how or why the edges cooperate and that the recitation "wherein the edges of the cutting teeth cooperate," for example, can be interpreted such that the edges cooperate to act as guides for the hairs to be cut. With this interpretation, the Examiner contends that the prior art meets the claimed invention because "a space remains between and at the end portions of the teeth and the openings are never entirely closed during operation."

However, this argument is not persuasive on various levels. For one, this position stated in the Final Office Action does not explain what features of Murran are considered to be cooperating cutting edges or cutting openings that are not entirely closed during operation. Moreover, this interpretation is seemingly based on a parsing of the claim language that fails to consider the claim language as a whole.

For instance, claim 1 recites that "two cooperating cutting

members that are movable relative to each other and that are each provided with cutting teeth that only partially overlap during operation of the shaving apparatus wherein edges of the cutting teeth cooperate ...". From the claim accordingly, the cooperating cutting members are movable relative to each other, have cutting teeth that only partially overlap during operation and edges of the cutting teeth cooperate.

Further, claim 1 recites "a cutting opening is present between the cooperating edges of the cutting teeth for catching hairs ...". From the antecedence present in the claims, the cooperating edges are the cooperating edges of the cutting teeth of the cooperating cutting members. Still further, claim 1 recites "a space remains between at least a portion of the cooperating edges such that the cutting openings are not entirely closed during operation of the apparatus." Clearly, the cooperating edges of the claims that are not entirely closed are the cooperation edges that are movable relative to each other and that only partially overlap during operation.

In FIG. 3 of Murran, a space is shown between cooperating cutting edges teeth (16) and (11) of cutting members (6) and (7). However because the cutting teeth (16) are fully disposed in the

pockets (13) and fully overlapped by teeth (11) during operation of the hedge trimmer, the cutting openings between cooperating edges of the teeth (16) and (11) (or 9) are fully closed to cut shrubs/branches that are disposed there between. In this regard, Murran clearly does not disclose or suggest that a space remains between at least a portion of the cooperating edges such that the cutting openings are not entirely closed during operation of the apparatus, as recited in the claims.

To the extent that a "cutting opening" in Murran would construe to be one that is formed between opposing edges of adjacent teeth (11) of the base plate (7) as shown in FIG. 3, it is respectfully submitted that such interpretation is not supportable in view of the claim language. Indeed, as noted above, in the context of the language of the claims, the cooperating cutting teeth and cutting edges as claimed are related to the cutting members that are movable in relation to each other and not cutting teeth of the same cutting member. Moreover, the edges of teeth (9) and (11) of corresponding plates (5) and plate (7) cannot be construed as "cooperating teeth" with "cooperating edges" in the context of the claimed inventions because the plates (5) and (7) are not two cooperating cutting members that are movable relative

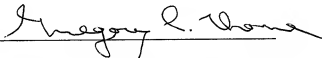
to each other (i.e., cutting members (5) and (7) are fixedly disposed (and not movable) in relation to each other and have teeth (9) and (11) are spatially aligned in fixed position to fully overlap and form a pocket (13) to receive the cutter (6)).

Based on the foregoing, the Applicants respectfully submit that independent claims 1 and 9 are patentable over Murran and notice to this effect is earnestly solicited. Claims 2-8 and 10-11 respectively depend from one of claims 1 and 9 and accordingly are allowable over Murran and/or Hanley for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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